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6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

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9 ALBERT N. LEE,

10 Plaintiff,

11 vs.

12 STEVEN B. WOLFSON, et al.,

13 Defendants.

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Case No. 3:13-cv-00335-RCJ-WGC

ORDER

15 Petitioner has appealed this court's dismissal of the action. The court of appeals has referred
16 the matter for a determination whether the appeal is frivolous or taken in bad faith, pursuant to 28
17 U.S.C. § 1915(a)(3). In addition to the court's reason for dismissing this action, there is another
18 consideration why an appeal would not be taken in good faith. Plaintiff's claims, if successful,
19 would necessarily imply that his judgment of conviction is invalid. Plaintiff cannot pursue such
20 claims in a civil rights action without first having the judgment of conviction invalidated through
21 other means. See Heck v. Humphrey, 512 U.S. 477, 486-87 (1994).

22 IT IS THEREFORE ORDERED that the appeal from the dismissal of this action is not taken
23 in good faith.

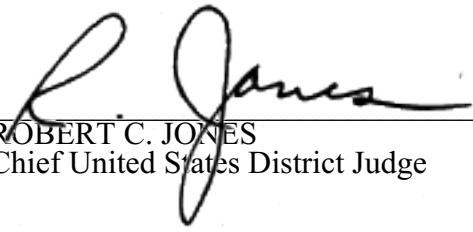
24 Dated: This 15th day of October, 2013.

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ROBERT C. JONES
Chief United States District Judge